IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4100 OF 2007

M/s. TATA AIG General Insurance Co. LTd...Petitioner.
Vs.
Smt. Asha Shetty & Ors. ..Respondents.

Mr.S.R.Singh, adv. for the Petitioner.

CORAM : J.H.BHATIA, J.
DATE : JULY 4, 2007.

P.C.

1. Heard Shri Singh the learned counsel for the petitioner.

2. One Mr.Satish Shetty died in motor accident on 27-12-2004 involving the vehicle no.MH-06/V-2768. Wife and other legal heirs of Satish Shetty filed a petition for compensation under Section 166 of the Motor Vehicles Act. On the application under Section 140, the Member of MACT, Bombay directed the opposite party, i.e. registered owner and the insurer to jointly and severally pay an amount of Rs.50,000/- as interim compensation on the principle of no fault liability. This petition is filed by the insurer contending that though the said vehicle was registered in the name of opposite party, i.e., Jaywant Ramchandra Keni and was insured with the present petitioner, as per the letter dated 2-2-2005 issued by the registered owner to the

petitioner, the said vehicle was already purchased by the deceased on 2-3-2004. It was contended in view of this that the deceased himself was the owner of the vehicle and the order under Section 140 of the Motor Vehicles Act could not be passed against the insurance company because the deceased was not a third party but the owner of the vehicle. This objection was overruled by the trial Court.

3. After perusal of the record and the impugned order, I find that admittedly the vehicle was actually registered and was standing in the name of the registered owner Jaywant Ramchandra Keni on the day of incident and in R.T.O. record also it was in the name of the said Jaywant Ramchandra Keni. On the basis of the letter dated 2-2-2005 from registered owner, the insurance company claims that the deceased was the owner and his legal heirs can not get compensation. It is material to note that the insurance policy which was in force on the day of incident was issued sometimes in August, 2004. Whether the letter, which was relied upon by the petitioner is genuine and whether the registered owner has given correct information to the insurance company by that letter, needs to be probed into at the time of the trial. On the basis of that letter, the legal heirs of the deceased could not be denied benefit of compensation to be paid under Section

140 of the Motor Vehicles Act. In view of this, I find no apparent error or illegality in the impugned order.

4. In the result, petition stands dismissed summarily.

[J.H.BHATIA, J.]